

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FRANCISCO TAMAYO, Individually and as  
Administrator of the Estate of IXCHEL  
TAMAYO, Deceased  
and  
GUADALUPE LUIS

Plaintiffs,

v.

DOLLAR TREE STORES, INC.;  
PEACHTREE PLAYTHINGS, INC.;  
GREENBRIER INTERNATIONAL, INC.;  
DISNEY ENTERPRISES, INC.;  
and  
PIXAR

Defendants.

**CIVIL ACTION**

**NO. 13-2062**

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**ORDER TO COMPROMISE WRONGFUL DEATH AND SURVIVAL ACTIONS  
AND ORDER FOR DISTRIBUTION**

AND NOW, this                      day of                      , 2014, upon consideration of the Petition of Francisco Tamayo, Administrator of the Estate of Ixchel Tamayo, Deceased, on Behalf of Said Decedent's Heirs-at-Law and Next-of-Kin, to Compromise Wrongful Death and Survival Actions, and an in camera review of the settlement terms, it is hereby ORDERED and DECREED that the Petitioner is authorized to enter into a settlement with Defendants. Defendants shall forward all settlement drafts to Petitioner's counsel for proper distribution.

BY THE COURT:

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J.

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**CIVIL ACTION**

**NO. 13-2062**

**PETITION TO SETTLE WRONGFUL DEATH AND SURVIVAL CLAIMS**

Petitioner, Francisco Tamayo, Administrators of the Estate of Ixchel Tamayo, Deceased, on Behalf of Said Decedent's Heirs-at-Law and Next-of-Kin, respectfully submits the following Petition to Settle Wrongful Death and Survival Claims and aver, as follows:

1. Francisco Tamayo, Ixchel Tamayo's father, was duly appointed as the Administrator of the Estate of Ixchel Tamayo, Deceased, having been appointed by the Register of Wills of Philadelphia County in the Commonwealth of Pennsylvania on February 21, 2013.
2. This Wrongful Death and Survival Action involves the death of Ixchel Tamayo.
3. On December 4, 2011, Ixchel Tamayo choked on a marker cap which was part of an Art Set.
4. Ixchel was pronounced dead on December 4, 2011 at the age of four (4) years.
5. At the time of her death, Ixchel Tamayo was survived by her parents, Francisco Tamayo and Guadalupe Luis.

6. Plaintiffs' counsel was retained pursuant to a Contingency Fee Agreement of Thirty-Three and One-Third Percent (33.3%).

7. On April 17, 2013, Plaintiffs filed a Complaint in the United States District Court for the Eastern District of Pennsylvania making claims in connection with the death of Ixchel Tamayo.

8. The parties mediated this case before Hon. James R. Melinson on May 22, 2014.

9. Plaintiffs settled their claims against all Defendants at the May 22, 2014 mediation.

10. Plaintiffs' counsel incurred \$50,817.38 in costs to prepare this case for settlement.

11. On July 10, 2014, the Commonwealth of Pennsylvania, Department of Revenue approved the Seventy Percent (70%) Wrongful Death and Thirty Percent (30%) Survival allocation proposed for the Estate of Ixchel Tamayo.

12. On August 28, 2014, the Pennsylvania Department of Public Welfare ("DPW") has advised that it does not have a lien against the Plaintiffs.

WHEREFORE, Petitioner respectfully requests that this Honorable Court conduct an in camera review of the terms of this settlement and enter the form of Order attached to approve the settlement and proposed distribution.

Respectfully submitted,

BY: /s/ David L. Kwass

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Date: 10/16/14